

CHAPTER 12-60

BUREAU OF CRIMINAL INVESTIGATION

12-60-01. Bureau created.

A bureau of the state government, under the attorney general, is hereby created and is designated as the bureau of criminal investigation, hereinafter referred to as the bureau.

12-60-02. Board of managers - Selection of members - Qualifications.

Repealed by S.L. 1971, ch. 141, § 1.

12-60-03. Terms of office - Filling of vacancies.

Repealed by S.L. 1971, ch. 141, § 1.

12-60-04. Duty of board - Salaries.

Repealed by S.L. 1971, ch. 141, § 1.

12-60-05. Attorney general - Duties - Appointment of personnel.

The attorney general shall act as superintendent of the bureau and shall have the responsibility of and shall exercise absolute control and management of the bureau. The attorney general shall appoint and fix the salary of a chief of the bureau, such special agents, and such other employees as the attorney general deems necessary to carry out the provisions of this chapter within the limits of legislative appropriations therefor. The attorney general may appoint ad hoc special agents. Ad hoc special agents are law enforcement officers from other jurisdictions appointed for a specific law enforcement purpose and do not become full-time or part-time employees of the attorney general.

12-60-06. Furnishing of equipment.

The attorney general shall provide the bureau with necessary furniture, fixtures, apparatus, appurtenances, appliances, materials, and equipment as the attorney general deems necessary for the collection, filing, and preservation of all records required by law to be filed with the bureau or which the attorney general may authorize to require or procure respecting the identification and investigation of criminals, the investigation of crime and detection of the perpetrators thereof, and identification and information concerning stolen, lost, found, pledged, or pawned property.

12-60-07. Powers, duties, and functions of bureau.

1. The bureau shall cooperate with and assist the criminal bureau of the department of justice at Washington, D.C., and similar departments in other states in establishing and carrying on a complete system of criminal identification.
2. The bureau shall cooperate with and assist all judges, state's attorneys, sheriffs, chiefs of police, and all other law enforcement officers of this or any other state and of the federal government in establishing such system of criminal identification.
3. The bureau is the state central repository for the collection, maintenance, and dissemination of criminal history record information.
4. The bureau shall assist the sheriffs and other peace officers in establishing a system for the apprehension of criminals and detection of crime.
5. When called upon by any state's attorney, sheriff, police officer, marshal, or other peace officers, the superintendent, chief of the bureau, and their investigators may assist, aid, and cooperate in the investigation, apprehension, arrest, detention, and conviction of all persons believed to be guilty of committing any felony within the state.
6. The bureau shall perform such other duties in the investigation, detection, apprehension, prosecution, or suppression of crimes as may be assigned by the attorney general in the performance of the attorney general's duties.
7. The bureau shall provide assistance from time to time in conducting police schools for training peace officers in their powers and duties, and in the use of approved methods

for detection, identification, and apprehension of criminals and require attendance at such police schools.

8. The bureau shall perform the inspection and enforcement duties for the attorney general's licensing department.
9. The bureau shall detect and apprehend persons illegally possessing or disposing of drugs.

12-60-07.1. Automated biometric data identification system.

The bureau may establish and maintain an automated biometric data identification system for this state. The bureau may cooperate with other states for the operation of a regional automated biometric data identification system.

12-60-08. Powers of investigators.

For the purpose of carrying out the provisions of this chapter, the investigators shall have all the powers conferred by law upon any peace officer of this state.

12-60-08.1. Power of the attorney general to issue subpoenas in bureau investigations.

The attorney general may issue an administrative subpoena compelling the recipient to provide records or information to an agent of the bureau of criminal investigation in any criminal matter being investigated by the bureau.

12-60-09. Authorization of attorney general for investigations.

No investigation of the acts or conduct of any state agency or state official shall be investigated or made through or by the bureau or any employee thereof, without the authorization of the attorney general particularly specifying the office, department, or person to be investigated and the scope and purposes of the investigation.

12-60-10. Fingerprints, photographs, description of persons charged with felony to be procured and filed.

Repealed by S.L. 1987, ch. 162, § 12.

12-60-11. Enforcement officers to send fingerprints and descriptions of felons to the bureau - Report of the bureau to arresting officer.

Repealed by S.L. 1987, ch. 162, § 12.

12-60-12. Officer may send fingerprints of persons having certain property in possession.

Repealed by S.L. 1987, ch. 162, § 12.

12-60-13. Court to ascertain criminal record of defendant - Furnish information of offense to the bureau.

The judge of the district court of the county in which a defendant is to be sentenced, or the state's attorney or sheriff thereof, shall ascertain the criminal record of every defendant convicted of a felony before sentence is passed on said defendant. The state's attorneys and sheriffs, upon the request of the chief of the bureau or the attorney general, shall furnish to the chief of the bureau a statement of facts relative to the commission or alleged commission of all felonies within their respective counties upon such blanks or in such form as may be requested by the chief of the bureau or the attorney general.

12-60-13.1. County and city officials to furnish crime statistics to superintendent.

Repealed by S.L. 1983, ch. 556, § 6.

12-60-14. Violation of chapter - Misdemeanor.

Repealed by S.L. 1975, ch. 106, § 673.

12-60-15. Duty to furnish information.

Repealed by S.L. 1987, ch. 162, § 12.

12-60-16. Report of arrested person's transfer, release, or disposition of case.

Repealed by S.L. 1987, ch. 162, § 12.

12-60-16.1. Definitions.

As used in this chapter and in section 12.1-32-15, unless the context otherwise requires:

1. "Biometric data" includes fingerprints, palm prints, voice prints, retinal or iris images, facial recognition, and DNA profiles.
2. "Bureau" means the bureau of criminal investigation.
3. "Court" means the supreme court, district courts, and municipal courts of the North Dakota judicial system.
4. "Criminal history record" means the compilation of criminal history record information of a person reported to the bureau in accordance with this chapter.
5. "Criminal history record information" includes information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other criminal charges, any dispositions arising therefrom, sentencing, correctional supervision, and release.
6. "Criminal justice agency" means any government law enforcement agency or entity authorized by law to provide information regarding, or to exercise the powers of, arrest, detention, prosecution, correctional supervision, rehabilitation, or release of persons suspected in, charged with, or convicted of, a crime.
7. "Disseminate" means to transmit criminal history record information in any oral or written form. The term does not include:
 - a. The transmittal of the information within a criminal justice agency.
 - b. The reporting of the information as required by section 12-60-16.2.
 - c. The transmittal of the information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.
8. "Noncriminal justice agency" means an entity that is not a criminal justice agency.
9. "Record subject" means the person who is the primary subject of a criminal history record. The term includes any representative designated by that person by power of attorney or notarized authorization. If the subject of the record is under legal disability, the term includes that person's parents or duly appointed legal representative.
10. "Reportable event" means an interaction with a criminal justice agency for which a report is required to be filed under section 12-60-16.2. The term includes only those events in which the subject of the event is an adult or a juvenile adjudicated as an adult.

12-60-16.2. Criminal history record information - Reportable events.

Except as otherwise provided in sections 12-60-16.1 through 12-60-16.10, each criminal justice agency shall report to the bureau the information described in this section for each felony and reportable offense so designated pursuant to section 12-60-16.4. The bureau may require the criminal justice agency to provide the information in a manner that the bureau determines to be the most efficient or accurate means of collection. The following criminal justice agencies shall perform the duties indicated:

1. Except as otherwise provided in this subsection, each criminal justice agency that makes an arrest for a reportable offense shall, with respect to that offense and the person arrested, furnish to the bureau the necessary biometric data, charges, and descriptions of the person arrested. If the arrest is made by a criminal justice agency that is a state law enforcement agency, then, on request of the arresting agency, a sheriff or jail administrator shall collect the necessary biometric data. The arresting agency shall then furnish the required information to the bureau. If a decision is made not to refer the arrest for prosecution, the criminal justice agency making that decision

- shall report the decision to the bureau. A criminal justice agency may make agreements with other criminal justice agencies for the purpose of furnishing to the bureau information required under this subsection.
2. The prosecuting attorney shall notify the bureau of all charges filed, including all those added after the filing of a criminal court case, and whether charges were not filed in criminal cases for which the bureau has a record of an arrest.
 3. After the court pronounces sentence for a reportable offense, and if the necessary biometric data of the person being sentenced has not been collected with respect to that case, the prosecuting attorney shall ask the court to order a law enforcement agency to collect the necessary biometric data from that person. If the court determines that the necessary biometric data of the person being so sentenced has not previously been collected for the same case, the court shall order the necessary biometric data to be collected from that person. The law enforcement agency shall forward the necessary biometric data to the bureau.
 4. The prosecuting attorney having jurisdiction over a reportable offense shall furnish the bureau all final dispositions of criminal cases for which the bureau has a record of an arrest or a record of biometric data reported under subsection 3. For each charge, this information must include at least the following:
 - a. Judgments of not guilty, judgments of guilty including the sentence pronounced by the court, discharges, and dismissals in the trial court;
 - b. Reviewing court orders filed with the clerk of the court which reverse or remand a reported conviction or which vacate or modify a sentence; and
 - c. Judgments terminating or revoking a sentence to probation and any resentencing after such a revocation.
 5. The North Dakota department of corrections and rehabilitation, pardon clerk, parole board, and local correctional facility administrators shall furnish the bureau with all information concerning the receipt, escape, death, release, pardon, conditional pardon, reprieve, parole, commutation of sentence, or discharge of an individual who has been sentenced to that agency's custody for any reportable offense which is required to be collected, maintained, or disseminated by the bureau. In the case of an escape from custody or death while in custody, information concerning the receipt and escape or death must also be furnished.

12-60-16.3. Criminal history record information - Rulemaking required.

The attorney general shall adopt appropriate rules for criminal justice agencies regarding the reporting, collecting, maintaining, and disseminating of criminal history record information. The rules must include:

1. Policies and procedures to be used by criminal justice agencies regarding:
 - a. Security of criminal history record information.
 - b. Inspection and challenging of criminal history record information by a record subject.
 - c. Auditing of criminal history record information to ensure that it is accurate and complete and that it is reported, collected, maintained, and disseminated in accordance with sections 12-60-16.1 through 12-60-16.10.
 - d. Development and content of agreements between the bureau and criminal justice agencies providing for reporting of and access to criminal history record information.
 - e. Use of criminal history record information for the purpose of research and statistical analysis of criminal activity.
 - f. Criteria under which criminal history records are purged or sealed.
2. Reportable events to be reported by each criminal justice agency, in order to avoid duplication in reporting.
3. Time requirements for reporting criminal history record information to the bureau.

12-60-16.4. Criminal history record information - Reportable offenses.

Criminal justice agencies shall report to the bureau reportable events for each felony and for each of the following offenses:

1. Class A and B misdemeanor offenses in sections 6-08-16 and 6-08-16.1.
2. Class A misdemeanor offenses included in title 12.1.
3. Class A and B misdemeanor offenses in chapters 19-03.1, 19-03.2, and 19-03.4 and in sections 12-47-21 and 20.1-01-18.
4. Class B misdemeanor offenses in sections 12.1-17-01, 12.1-17-01.2, 12.1-20-12.1, 12.1-21-05, 12.1-21-06, 12.1-22-03, 12.1-23-05, and 12.1-29-03.
5. Class A misdemeanor offenses in chapter 14-07.1 and sections 43-15.1-02, 51-16.1-04, and 53-06.1-16.
6. Class A misdemeanor offenses in title 62.1.
7. Municipal ordinance violations that are equivalent to misdemeanors listed in subsections 1 through 6.
8. Infractions and misdemeanor violations of subdivision c of subsection 5 of section 39-24-09 and chapter 39-24.1.

12-60-16.5. Criminal history record information - Exchange of information among criminal justice agencies and the courts.

The bureau and other criminal justice agencies shall disclose criminal history record information:

1. To a criminal justice agency that requests the information for its functions as a criminal justice agency or for use in hiring or retaining its employees.
2. To a court, on request, to aid in a decision concerning sentence, probation, release pending trial or appeal, or a name change petition.
3. Pursuant to a judicial, legislative, or administrative agency subpoena issued in this state.
4. As otherwise expressly required by law.

12-60-16.6. Criminal history record information - Dissemination to parties not described in section 12-60-16.5.

Only the bureau may disseminate a criminal history record to parties not described in section 12-60-16.5. The dissemination may be made only if all the following requirements are met:

1. The criminal history record information has not been purged or sealed.
2. The criminal history record information is of a conviction, including a conviction for violating section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-06.1, or 12.1-20-11 notwithstanding any disposition following a deferred imposition of sentence; or the criminal history record information is of a reportable event occurring within three years preceding the request.
3. The request is written and contains:
 - a. The name of the requester.
 - b. The biometric data of the record subject or, if the request is made without submitting the biometric data, the request must also include the name of the record subject and at least two items of information used by the bureau to retrieve criminal history records, including:
 - (1) The state identification number assigned to the record subject by the bureau.
 - (2) The social security number of the record subject.
 - (3) The date of birth of the record subject.
 - (4) A specific reportable event identified by date and either agency or court.
4. The identifying information supporting a request for a criminal history record does not match the record of more than one individual.

In order to confirm a record match, the bureau may contact the requester to collect additional information if a request contains an item of information that appears to be inaccurate or

incomplete. This section does not prohibit the disclosure of a criminal history record by the requester or other persons after the dissemination of the record by the bureau to the requester.

12-60-16.7. Criminal history record information - Prohibited dissemination.

If dissemination is prohibited under section 12-60-16.6, or there is no information, the bureau shall provide the following answer to the requester: "No information is available because either no information exists or dissemination is prohibited."

12-60-16.8. Criminal history record information - Required disclosure of certain dissemination.

If the bureau disseminates information under section 12-60-16.6, unless the request was accompanied by an authorization on forms prescribed by the bureau and signed by the record subject, the bureau shall mail notice of that dissemination to the record subject at the last known address of the record subject.

12-60-16.9. Criminal history record information - Fee for record check.

The bureau shall impose a fee of fifteen dollars for each state record check. The bureau shall impose a fee of five dollars for each record check for a nonprofit organization that is organized and operated in this state exclusively for charitable purposes for the exclusive benefit of minors. The bureau shall impose a fee of five dollars for each record check conducted on a volunteer providing services for a nonprofit organization that is organized and operated in this state exclusively for charitable purposes for the exclusive benefit of vulnerable elderly adults. The bureau shall impose a fee of fifteen dollars for processing biometric data necessary for each nationwide criminal history record check. The bureau shall waive the fees for any criminal justice agency or court.

12-60-16.10. Criminal history record information - Penalty.

Any willful violation as defined in section 12.1-02-02 of any provision of sections 12-60-16.1 through 12-60-16.9 relating to reporting or disseminating criminal history record information is a class A misdemeanor.

12-60-16.11. Criminal history record information - Required action.

Any person offering criminal background checks for compensation, for the purpose of screening applicants seeking a position in which the applicant is responsible for providing care for a vulnerable adult, shall utilize the bureau of criminal investigation statewide criminal history database in addition to any other compiled information. The entity shall pay any applicable fees set forth in section 12-60-16.9.

12-60-16.12. Criminal history record information - Civil action - Penalty.

A person that disseminates, publishes, or maintains or causes to be disseminated, published, or maintained, the criminal history record information of an individual which pertains to that individual's charge or arrest for a criminal offense, and solicits, requests, or accepts money or other thing of value for removing the criminal history record information is civilly liable to that individual in the amount of five hundred dollars or actual damages, whichever is greater, plus reasonable attorney's fees and court costs.

12-60-17. Superintendent to make rules and regulations.

The superintendent, pursuant to chapter 28-32, shall make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary and proper for the efficient performance of the bureau's duties. Such rules and regulations must be forwarded to each state's attorney, sheriff, marshal, or other peace officer, and each of said officers shall assist the superintendent in the performance of the superintendent's duties by complying with such rules and regulations.

12-60-18. Money collected paid into general fund.

All moneys collected or received, including all rewards for the apprehension or conviction of any criminal earned or collected by the superintendent, the chief of the bureau, his assistants, or any employee of his office, shall be paid into the general fund of the state.

12-60-19. Cooperation of bureau.

Repealed by S.L. 1983, ch. 556, § 6.

12-60-20. Bureau to act as a consumer fraud bureau.

Repealed by S.L. 1983, ch. 556, § 6.

12-60-21. State crime laboratory.

Repealed by S.L. 2003, ch. 469, § 13.

12-60-22. Provision of laboratory facilities and technical personnel - Request.

Repealed by S.L. 2003, ch. 469, § 13.

12-60-23. Bureau to maintain registry of protection orders, orders prohibiting contact, and restraining orders.

The bureau shall maintain a registry of all orders of which it receives notice under sections 11-15-32, 12.1-31.2-02, 14-07.1-02, and 14-07.1-03.

12-60-24. Criminal history record checks. (Effective through December 31, 2023)

1. a. Each applicant, employee, or petitioner for adoption or name change who is subject to a criminal history record check under subsection 2 shall consent to a statewide and nationwide criminal history record check for the purpose of determining suitability or fitness for a permit, license, registration, employment, or adoption.
- b. Each applicant, employee, registrant, or petitioner for adoption or name change subject to a criminal history record check shall provide to the requesting agency or entity written consent to conduct the check and to release or disclose the information in accordance with state and federal law, two sets of fingerprints from a law enforcement agency or other local agency authorized to take fingerprints, any other identifying information requested, and a statement indicating whether the applicant or employee has ever been convicted of a crime.
- c. The agency, official, or entity shall submit these fingerprints to the bureau of criminal investigation for nationwide criminal history record information that includes resubmission of the fingerprints by the bureau of criminal investigation to the federal bureau of investigation. Except if otherwise provided by law, federal bureau of investigation criminal history record information obtained by an agency or entity is confidential. For a request for nationwide criminal history record information made under this section, the bureau of criminal investigation is the sole source to receive the fingerprint submissions and responses from the federal bureau of investigation. A person who takes fingerprints under this section may charge a reasonable fee to offset the cost of fingerprinting. Unless otherwise provided by law, the bureau of criminal investigation may charge appropriate fees for criminal history information.
- d. Fingerprints and any other identifying information the bureau has obtained under this section may be retained by the bureau and the federal bureau of investigation at the request of the agency, official, or entity submitting the fingerprints and any other identifying information for a statewide and nationwide criminal history record check. The subject of the records must be provided notice of the retention of the fingerprints and any other identifying information. The bureau may provide to each agency, official, or entity listed in subsection 2 of this section the response

- of the bureau and the federal bureau of investigation any statewide criminal history record information that may lawfully be made available under this chapter.
- e. The bureau may provide the results of a criminal history background check made under subsection 2 of this section to another state's identification bureau or central repository for the collection, maintenance, and dissemination of criminal history record information when the other state's identification bureau or central repository has requested the results of the criminal history background check and the agency, official, or entity of the other state has equivalent authority to subsection 2 of this section to request a statewide and nationwide criminal history check.
2. The bureau of criminal investigation shall provide to each agency, official, or entity listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter:
 - a. The governing body of a city or a county, by ordinance or resolution, for a final applicant for a specified occupation with the city or county.
 - b. The agriculture commissioner for each applicant for a license to grow or process hemp under section 4.1-18.1-02.
 - c. The education standards and practices board for initial, re-entry, and reciprocal teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance and counseling services under section 15.1-13-23.
 - d. The North Dakota board of medicine for licenses or disciplinary investigations under section 43-17-07.1, except that criminal history record checks need not be made unless required by the board.
 - e. The private investigative and security board for licenses or registrations under section 43-30-06.
 - f. The department of health and human services for foster care licenses, certified family foster home for children providers, approved tribal foster care facilities, and identified relatives under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 25-03.2, 50-06, 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other four chapters. The federal bureau of investigation's criminal history record investigation obtained from one criminal history record investigation purpose may not be reused to satisfy the requirements of another federal bureau of investigation's criminal history record investigation for a different purpose.
 - g. The department of health and human services for criminal history record checks authorized under section 50-06-01.9.
 - h. The chief information officer of the information technology department for certain individuals under section 54-59-20.
 - i. A public peace officer training school that has been approved by the peace officer standards and training board for enrollees in the school. The school may only disclose the criminal history record information as authorized by law. The school shall pay the costs for securing the fingerprints, any criminal history record information made available under this chapter, and for the nationwide criminal history record check. This subdivision does not apply to the highway patrol law enforcement training center and enrollees who have a limited license under section 12-63-09.
 - j. The North Dakota public employees retirement board for individuals first employed by the public employees retirement board after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.

- k. The executive director of the retirement and investment office for individuals first employed by the retirement and investment office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- l. The Bank of North Dakota for a final applicant for a specified occupation with the Bank as designated by the president.
- m. Job service North Dakota for all employees, final applicants for employment with job service, and contractors with access to federal tax information.
- n. The department of health and human services for a final applicant for a job opening or a current employee with the department; an individual being investigated by the department; or an applicant for registration as a designated caregiver or a compassion center agent under chapter 19-24.1.
- o. The state board of nursing for applicants, licensees, registrants, or disciplinary investigations under chapter 43-12.1, except that criminal history record checks need not be made unless required by the board.
- p. The state board of pharmacy for applicants or disciplinary investigations under chapter 43-15 and registrations, or revocation or suspension of registrations, under chapter 19-03.1, except that criminal history record checks need not be made unless required by the board.
- q. The state real estate commission for applicants, licensees, or investigations under chapter 43-23, except that criminal history record checks need not be made unless required by the commission.
- r. The North Dakota board of social work examiners for applicants for initial licensure or licensees under chapter 43-41, except that criminal history record checks for licensees need not be made unless required by the board.
- s. All agencies, departments, bureaus, boards, commissions, or institutions of the state, including the North Dakota university system, for all employees or final applicants for employment as a security guard or to otherwise provide security.
- t. The office of management and budget for each individual who has access to personal information as designated by the director.
- u. The department of corrections and rehabilitation for all agents and employees and a final applicant for employment designated by the director and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the department who exercises direct authority over juveniles, inmates, probationers, or parolees.
- v. A city, county, or combination of cities or counties that operates a correctional facility subject to chapter 12-44.1, for each agent and employee and a final applicant for employment of the correctional facility who has direct contact with or exercises direct authority over any juvenile or inmate of the correctional facility, and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the correctional facility who exercises direct authority over juveniles, inmates, probationers, or parolees.
- w. The North Dakota university system for a final applicant for or employee in a specified position in the university system or a university system institution or for each student applying for or admitted to a specified program of study, as designated by the chancellor.
- x.
 - (1) The board of a school district, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (2) The board of a multidistrict special education unit, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (3) The board of an area career and technology center, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

- (4) The board of a regional education association, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
 - (5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for employees designated by the nonpublic or state school, provided the nonpublic or state school is responsible for paying the costs associated with obtaining a criminal history record check.
- y.
 - (1) The board of a school district, for a final applicant seeking employment with the district or otherwise providing services to the district, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (2) The board of a multidistrict special education unit, for a final applicant seeking employment with the unit or otherwise providing services to the unit, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (3) The board of an area career and technology center, for a final applicant seeking employment with the center or otherwise providing services to the center, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (4) The board of a regional education association, for a final applicant seeking employment with the association or otherwise providing services to the association if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
 - (5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for a final applicant seeking employment with the school or otherwise providing services to the school, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check.
 - (6) For purposes of this subdivision, "unsupervised contact" with students means being in proximity to one or more students, on school grounds or at school functions, outside the presence of an individual who has been subject to a criminal history record check.
- z. The racing commission for applicants for licenses under chapter 53-06.2, except that criminal history record checks need not be made unless required by the commission.
- aa. A district court for a petition to change a name under chapter 32-28.
- bb. The state board of pharmacy for a wholesale drug distributor seeking licensure under chapter 43-15.3.
- cc. The board of dental examiners for investigations of applicants or dentists under section 43-28-11.2, except that criminal history record checks need not be made unless required by the board.
- dd. The department of financial institutions for each applicant for a specified occupation with the department as specified by the commissioner and principal owners and managing officers of applicants for a license from the department of financial institutions.
- ee. The office of tax commissioner for all employees, final applicants for employment with the tax commissioner, and contractors with access to federal tax information.

- ff. The state board of examiners for nursing home administrators for applicants for licensure or licensees under chapter 43-34, except that criminal history record checks for licensees need not be made unless required by the board.
- gg. The marriage and family therapy licensure board for applicants, licensees, or investigations under chapter 43-53, except that criminal history record checks need not be made unless required by the board.
- hh. The state board of chiropractic examiners for applicants, licensees, certificates, or investigations under chapter 43-06, except that criminal history record checks need not be made unless required by the board.
- ii. Workforce safety and insurance for a final applicant for a specified occupation with workforce safety and insurance as designated by the director, or for contractors who may have access to confidential information as designated by the director.
- jj. The board of counselor examiners for applicants for licensure or licensees under chapter 43-47, except that criminal history record checks for licensees need not be made unless required by the board.
- kk. The state board of respiratory care for applicants, licensees, or investigations under chapter 43-42, except that criminal history record checks need not be made unless required by the board.
- ll. The North Dakota real estate appraiser qualifications and ethics board for applicants for permits or registration or permittees, registrants, owners, or controlling persons under chapters 43-23.3 and 43-23.5, except that criminal history record checks for permittees, registrants, owners, or controlling persons need not be made unless required by the board.
- mm. The insurance department for criminal history record checks authorized under chapters 26.1-26 and 26.1-26.8.
- nn. The office of the adjutant general for employees and volunteers working with the recruiting and retention, sexual assault, and youth programs.
- oo. The parks and recreation department for volunteers and final applicants for employment, as determined by the director of the parks and recreation department.
- pp. The North Dakota medical imaging and radiation therapy board of examiners for licensure and licensees under chapter 43-62, except that criminal history record checks for licensees need not be made unless required by the board.
- qq. The game and fish department for volunteers and final applicants for employment, as determined by the director of the game and fish department.
- rr. The North Dakota board of massage for applicants, licensees, or investigations under chapter 43-25.
- ss. The North Dakota board of physical therapy for physical therapist and physical therapist assistant applicants and for licensees under investigation, except that criminal history record checks need not be made unless required by the board.
- tt. The department of commerce for volunteers and employees providing services through eligible organizations, as determined by the commissioner of commerce.
- uu. The state court administrator for a guardian ad litem who provides direct services to youth.
- vv. The department of environmental quality for a final applicant for a job opening or a current employee with the department, or an applicant for a radioactive materials license under chapter 23.1-03 or a solid waste permit under chapter 23.1-08 as provided in section 23.1-01-11.1.
- ww. The housing finance agency for criminal history record checks authorized under section 54-17-07.13.
- xx. The office of state treasurer for each individual who has access to federal tax information.
- yy. The public service commission for initial applicant licenses under chapter 51-05.1, except that criminal history record checks need not be made unless required by the public service commission.

- zz. The department of health and human services for a criminal history record check for a children's advocacy center as authorized under section 50-25.1-11.1.
- aaa. The state historical society for volunteers and final applicants for employment, except that criminal history record checks need not be made unless requested by the society.
- bbb. The department of transportation for volunteers and final applicants for employment, as determined by the director of the department of transportation.
- ccc. The commission on legal counsel for indigents for a volunteer or final applicant for employment, as determined by the director of the commission on legal counsel for indigents.
- ddd. The board of dietetic practice for applications for licensure or renewal under chapter 43-44, except that criminal history record checks need not be made unless required by the board.
- eee. The secretary of state for employees with access to personally identifying information of residents or businesses of the state or with access to elections systems that are critical infrastructure under section 44-04-24.
- fff. The department of health and human services for applicants for initial licensure for emergency medical services personnel, such as emergency medical technicians, advanced emergency medical technicians, and paramedics, as required by subdivision d of subsection 3 of section 23-27.1-03.
- 3. a. The bureau of criminal investigation shall conduct a statewide and nationwide criminal history record check for the purpose of determining eligibility for a concealed weapons license for each applicant for an initial license or the renewal of a concealed weapons license under chapter 62.1-04. The nationwide criminal history record check must include an inquiry of the national instant criminal background check system, and if the applicant is not a United States citizen, an immigration alien query.
- b. Each applicant for a concealed weapons license shall provide to the bureau of criminal investigation written consent to conduct the criminal history record check, to maintain, release, and disclose the information in accordance with state and federal law, and to make a determination on the application; two sets of fingerprints from a law enforcement agency or other individual authorized to take fingerprints; and any other information required under chapter 62.1-04. The person who takes fingerprints under this subsection may charge a reasonable fee for fingerprinting.
- c. The bureau of criminal investigation shall resubmit the fingerprints to the federal bureau of investigation. Except as otherwise provided by law, federal bureau of investigation criminal history record information is confidential.

Criminal history record checks. (Effective after December 31, 2023)

- 1. a. Each applicant, employee, or petitioner for adoption or name change who is subject to a criminal history record check under subsection 2 shall consent to a statewide and nationwide criminal history record check for the purpose of determining suitability or fitness for a permit, license, registration, employment, or adoption.
- b. Each applicant, employee, registrant, or petitioner for adoption or name change subject to a criminal history record check shall provide to the requesting agency or entity written consent to conduct the check and to release or disclose the information in accordance with state and federal law, two sets of fingerprints from a law enforcement agency or other local agency authorized to take fingerprints, any other identifying information requested, and a statement indicating whether the applicant or employee has ever been convicted of a crime.
- c. The agency, official, or entity shall submit these fingerprints to the bureau of criminal investigation for nationwide criminal history record information that includes resubmission of the fingerprints by the bureau of criminal investigation to the federal bureau of investigation. Except if otherwise provided by law, federal

bureau of investigation criminal history record information obtained by an agency or entity is confidential. For a request for nationwide criminal history record information made under this section, the bureau of criminal investigation is the sole source to receive the fingerprint submissions and responses from the federal bureau of investigation. A person who takes fingerprints under this section may charge a reasonable fee to offset the cost of fingerprinting. Unless otherwise provided by law, the bureau of criminal investigation may charge appropriate fees for criminal history information.

- d. Fingerprints and any other identifying information the bureau has obtained under this section may be retained by the bureau and the federal bureau of investigation at the request of the agency, official, or entity submitting the fingerprints and any other identifying information for a statewide and nationwide criminal history record check. The subject of the records must be provided notice of the retention of the fingerprints and any other identifying information. The bureau may provide to each agency, official, or entity listed in subsection 2 of this section the response of the bureau and the federal bureau of investigation any statewide criminal history record information that may lawfully be made available under this chapter.
 - e. The bureau may provide the results of a criminal history background check made under subsection 2 of this section to another state's identification bureau or central repository for the collection, maintenance, and dissemination of criminal history record information when the other state's identification bureau or central repository has requested the results of the criminal history background check and the agency, official, or entity of the other state has equivalent authority to subsection 2 of this section to request a statewide and nationwide criminal history check.
2. The bureau of criminal investigation shall provide to each agency, official, or entity listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter:
- a. The governing body of a city or a county, by ordinance or resolution, for a final applicant for a specified occupation with the city or county.
 - b. The agriculture commissioner for each applicant for a license to grow or process hemp under section 4.1-18.1-02.
 - c. The education standards and practices board for initial, re-entry, and reciprocal teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance and counseling services under section 15.1-13-23.
 - d. The North Dakota board of medicine for licenses or disciplinary investigations under section 43-17-07.1, except that criminal history record checks need not be made unless required by the board.
 - e. The private investigative and security board for licenses or registrations under section 43-30-06.
 - f. The department of health and human services for foster care licenses, certified family foster home for children providers, approved tribal foster care facilities, and identified relatives under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 25-03.2, 50-06, 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other four chapters. The federal bureau of investigation's criminal history record investigation obtained from one criminal history record investigation purpose may not be reused to satisfy the requirements of another federal bureau of investigation's criminal history record investigation for a different purpose.
 - g. The department of health and human services for criminal history record checks authorized under section 50-06-01.9.

- h. The chief information officer of the information technology department for certain individuals under section 54-59-20.
- i. A public peace officer training school that has been approved by the peace officer standards and training board for enrollees in the school. The school may only disclose the criminal history record information as authorized by law. The school shall pay the costs for securing the fingerprints, any criminal history record information made available under this chapter, and for the nationwide criminal history record check. This subdivision does not apply to the highway patrol law enforcement training center and enrollees who have a limited license under section 12-63-09.
- j. The North Dakota public employees retirement board for individuals first employed by the public employees retirement board after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- k. The executive director of the retirement and investment office for individuals first employed by the retirement and investment office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- l. The Bank of North Dakota for a final applicant for a specified occupation with the Bank as designated by the president.
- m. Job service North Dakota for all employees, final applicants for employment with job service, and contractors with access to federal tax information.
- n. The department of health and human services for a final applicant for a job opening or a current employee with the department; an individual being investigated by the department; or an applicant for registration as a designated caregiver or a compassion center agent under chapter 19-24.1.
- o. The state board of nursing for applicants, licensees, registrants, or disciplinary investigations under chapter 43-12.1, except that criminal history record checks need not be made unless required by the board.
- p. The state board of pharmacy for applicants or disciplinary investigations under chapter 43-15 and registrations, or revocation or suspension of registrations, under chapter 19-03.1, except that criminal history record checks need not be made unless required by the board.
- q. The state real estate commission for applicants, licensees, or investigations under chapter 43-23, except that criminal history record checks need not be made unless required by the commission.
- r. The North Dakota board of social work examiners for applicants for initial licensure or licensees under chapter 43-41, except that criminal history record checks for licensees need not be made unless required by the board.
- s. All agencies, departments, bureaus, boards, commissions, or institutions of the state, including the North Dakota university system, for all employees or final applicants for employment as a security guard or to otherwise provide security.
- t. The office of management and budget for each individual who has access to personal information as designated by the director.
- u. The department of corrections and rehabilitation for all agents and employees and a final applicant for employment designated by the director and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the department who exercises direct authority over juveniles, inmates, probationers, or parolees.
- v. A city, county, or combination of cities or counties that operates a correctional facility subject to chapter 12-44.1, for each agent and employee and a final applicant for employment of the correctional facility who has direct contact with or exercises direct authority over any juvenile or inmate of the correctional facility, and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the correctional facility who exercises direct authority over juveniles, inmates, probationers, or parolees.

- w. The North Dakota university system for a final applicant for or employee in a specified position in the university system or a university system institution or for each student applying for or admitted to a specified program of study, as designated by the chancellor.
- x.
 - (1) The board of a school district, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (2) The board of a multidistrict special education unit, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (3) The board of an area career and technology center, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (4) The board of a regional education association, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
 - (5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for employees designated by the nonpublic or state school, provided the nonpublic or state school is responsible for paying the costs associated with obtaining a criminal history record check.
- y.
 - (1) The board of a school district, for a final applicant seeking employment with the district or otherwise providing services to the district, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (2) The board of a multidistrict special education unit, for a final applicant seeking employment with the unit or otherwise providing services to the unit, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (3) The board of an area career and technology center, for a final applicant seeking employment with the center or otherwise providing services to the center, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (4) The board of a regional education association, for a final applicant seeking employment with the association or otherwise providing services to the association if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
 - (5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for a final applicant seeking employment with the school or otherwise providing services to the school, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check.
 - (6) For purposes of this subdivision, "unsupervised contact" with students means being in proximity to one or more students, on school grounds or at school functions, outside the presence of an individual who has been subject to a criminal history record check.
- z. The racing commission for applicants for licenses under chapter 53-06.2, except that criminal history record checks need not be made unless required by the commission.

- aa. A district court for a petition to change a name under chapter 32-28.
- bb. The state board of pharmacy for a wholesale drug distributor seeking licensure under chapter 43-15.3.
- cc. The board of dental examiners for investigations of applicants or dentists under section 43-28-11.2, except that criminal history record checks need not be made unless required by the board.
- dd. The department of financial institutions for each applicant for a specified occupation with the department as specified by the commissioner and principal owners and managing officers of applicants for a license from the department of financial institutions.
- ee. The office of tax commissioner for all employees, final applicants for employment with the tax commissioner, and contractors with access to federal tax information.
- ff. The state board of examiners for nursing home administrators for applicants for licensure or licensees under chapter 43-34, except that criminal history record checks for licensees need not be made unless required by the board.
- gg. The marriage and family therapy licensure board for applicants, licensees, or investigations under chapter 43-53, except that criminal history record checks need not be made unless required by the board.
- hh. The state board of chiropractic examiners for applicants, licensees, certificates, or investigations under chapter 43-06, except that criminal history record checks need not be made unless required by the board.
 - ii. Workforce safety and insurance for a final applicant for a specified occupation with workforce safety and insurance as designated by the director, or for contractors who may have access to confidential information as designated by the director.
- jj. The board of counselor examiners for applicants for licensure or licensees under chapter 43-47, except that criminal history record checks for licensees need not be made unless required by the board.
- kk. The state board of respiratory care for applicants, licensees, or investigations under chapter 43-42, except that criminal history record checks need not be made unless required by the board.
- ll. The North Dakota real estate appraiser qualifications and ethics board for applicants for permits or registration or permittees, registrants, owners, or controlling persons under chapters 43-23.3 and 43-23.5, except that criminal history record checks for permittees, registrants, owners, or controlling persons need not be made unless required by the board.
- mm. The insurance department for criminal history record checks authorized under chapters 26.1-26 and 26.1-26.8.
- nn. The office of the adjutant general for employees and volunteers working with the recruiting and retention, sexual assault, and youth programs.
- oo. The parks and recreation department for volunteers and final applicants for employment, as determined by the director of the parks and recreation department.
- pp. The North Dakota medical imaging and radiation therapy board of examiners for licensure and licensees under chapter 43-62, except that criminal history record checks for licensees need not be made unless required by the board.
- qq. The game and fish department for volunteers and final applicants for employment, as determined by the director of the game and fish department.
- rr. The North Dakota board of massage for applicants, licensees, or investigations under chapter 43-25.
- ss. The North Dakota board of physical therapy for physical therapist and physical therapist assistant applicants and for licensees under investigation, except that criminal history record checks need not be made unless required by the board.
- tt. The department of commerce for volunteers and employees providing services through eligible organizations, as determined by the commissioner of commerce.

- uu. The state court administrator for a guardian ad litem who provides direct services to youth.
 - vv. The department of environmental quality for a final applicant for a job opening or a current employee with the department, or an applicant for a radioactive materials license under chapter 23.1-03 or a solid waste permit under chapter 23.1-08 as provided in section 23.1-01-11.1.
 - ww. The housing finance agency for criminal history record checks authorized under section 54-17-07.13.
 - xx. The office of state treasurer for each individual who has access to federal tax information.
 - yy. The department of health and human services for a criminal history record check for a children's advocacy center as authorized under section 50-25.1-11.1.
 - zz. The state historical society for volunteers and final applicants for employment, except that criminal history record checks need not be made unless requested by the society.
 - aaa. The department of transportation for volunteers and final applicants for employment, as determined by the director of the department of transportation.
 - bbb. The commission on legal counsel for indigents for a volunteer or final applicant for employment, as determined by the director of the commission on legal counsel for indigents.
 - ccc. The board of dietetic practice for applications for licensure or renewal under chapter 43-44, except that criminal history record checks need not be made unless required by the board.
 - ddd. The secretary of state for employees with access to personally identifying information of residents or businesses of the state or with access to elections systems that are critical infrastructure under section 44-04-24.
 - eee. The department of health and human services for applicants for initial licensure for emergency medical services personnel, such as emergency medical technicians, advanced emergency medical technicians, and paramedics, as required by subdivision d of subsection 3 of section 23-27.1-03.
3.
 - a. The bureau of criminal investigation shall conduct a statewide and nationwide criminal history record check for the purpose of determining eligibility for a concealed weapons license for each applicant for an initial license or the renewal of a concealed weapons license under chapter 62.1-04. The nationwide criminal history record check must include an inquiry of the national instant criminal background check system, and if the applicant is not a United States citizen, an immigration alien query.
 - b. Each applicant for a concealed weapons license shall provide to the bureau of criminal investigation written consent to conduct the criminal history record check, to maintain, release, and disclose the information in accordance with state and federal law, and to make a determination on the application; two sets of fingerprints from a law enforcement agency or other individual authorized to take fingerprints; and any other information required under chapter 62.1-04. The person who takes fingerprints under this subsection may charge a reasonable fee for fingerprinting.
 - c. The bureau of criminal investigation shall resubmit the fingerprints to the federal bureau of investigation. Except as otherwise provided by law, federal bureau of investigation criminal history record information is confidential.

12-60-25. Lost, missing, or runaway children.

The bureau shall:

1. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information that can assist appropriate agencies in recovering lost, missing, or runaway children through the national crime information center.

2. Establish contacts and exchange information regarding lost, missing, or runaway children with the national crime information center.
3. Notify all enforcement agencies that reports of lost, missing, or runaway children must be entered as soon as the minimum level of data specified by the bureau is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the bureau immediately upon notification shall enter the information into the national crime information center file.
4. Compile and retain information regarding lost, missing, or runaway children in a manner that allows the information to be used by law enforcement and other agencies, considered appropriate by the bureau, for investigative purposes. The reporting law enforcement agency is responsible for maintaining the disposition of the case.
5. Provide prompt confirmation of the receipt and entry of lost, missing, or runaway children reports to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection 6.
6. Allow any parent, guardian, or identified family member to submit a lost, missing, or runaway child report to the bureau which will be transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.
7. Compile and maintain historical information relating to lost, missing, or runaway children for all of the following purposes:
 - a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of lost, missing, or runaway children.
 - b. To provide a factual and statistical base for research which would address the problem of lost, missing, or runaway children.

12-60-26. School enrollment procedures to aid identification and location of lost, missing, and runaway children.

1. When a child enrolls in a public or nonpublic school, licensed day care facility, home education, licensed day care center, licensed child care facility, headstart program, or nursery school for the first time, the school, licensed day care facility, headstart program, or school superintendent of the jurisdiction shall:
 - a. Require the child's parent, guardian, or legal custodian to present to the school, licensed day care facility, or school superintendent of the jurisdiction, within forty days of enrollment, proof of identity of the child; and
 - b. Request the appropriate school records for the child from the previous school attended by the child. The school enrolling the child shall make the request within thirty days of enrollment of the child.
2. If a child's parent, guardian, or legal custodian does not present the proof of identity required in subsection 1 within forty days of enrollment or if the school does not receive the school records of the child within sixty days of enrollment, the school, licensed day care facility, or school superintendent of the jurisdiction shall notify the bureau and a local law enforcement authority that no proof of identity has been presented for the child.
3. A school shall transfer records or proof of identity of a child within ten calendar days upon receipt of request.
4. When a school, licensed day care facility, or school superintendent receives a notice from a law enforcement authority, parent, guardian, or legal custodian that a child who is or has been enrolled in that school or facility has been reported as a lost, missing, or runaway child, the school, licensed day care facility, or school superintendent shall:
 - a. Flag the records of the child; and
 - b. Notify the bureau and a local law enforcement authority if a request for school records is received from any source.
5. When the division of vital records of the department of health and human services receives a notice from a law enforcement authority that a child is reported as lost, missing, or runaway, the division of vital records shall:
 - a. Flag the records of the individual; and

- b. Notify the bureau and a local law enforcement authority if a request for records is received from any source.
- 6. If it is necessary for law enforcement authorities to conduct an investigation on a lost, missing, or runaway child, school or day care personnel may not inform the person claiming custody of the child of the investigation while it is being conducted.
- 7. For purposes of this section:
 - a. "Flag the records" means marking the division of vital records, school, day care, or home education records in such a manner that any personnel viewing that record will be automatically alerted that the child or individual has been reported as lost, missing, or runaway.
 - b. "Home education" means a program of education supervised by a child's parent in accordance with the requirements of chapter 15.1-23.
 - c. "Proof of identity" means a certified copy of a birth certificate, a certified transcript, or similar student records from the previous school, or any other documentary evidence the school, licensed day care facility, or school superintendent considers appropriate proof of identity.
 - d. "School" or "licensed day care facility" means all elementary and secondary schools, licensed day care centers, licensed child care facilities, headstart programs, and nursery schools whether public or nonpublic.